SFA Update

National Marine Fisheries Service *October 1997*

NMFS Notifies Councils of Overfished Fisheries; Action to End Overfishing Requested

On September 30, 1997, NMFS delivered to the Regional Fishery Management Councils (Councils) a Report on the Status of the Fisheries of the United States (Report) identifying fish stocks that are overfished and stocks that are approaching an overfished condition. The Report initiates the statutory requirement for the Councils to take action to end overfishing and rebuild overfished stocks, and to prevent overfishing of stocks that are approaching an overfished condition.

Section 304(e)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Stevens-Act) [SFA §109(e)] requires the Secretary of Commerce (Secretary) to report to Congress and the Councils annually on the status of the fisheries in each Council's geographical area of authority and to identify those fisheries (stocks) that are overfished or are approaching an overfished condition. Whether or not a fishery is overfished is determined using the overfishing definition in the Fishery Management Plan (FMP) or international agreement for that fishery. A fishery is considered to be approaching an overfished condition if, considering trends in fishing effort, resource size, and other pertinent factors, the Secretary estimates the fishery will be overfished within 2 years. In the Report, NMFS identified 76 overfished and 10 approaching-overfished stocks covered by an FMP, and ten overfished stocks not covered by an FMP.

Although the Report contains a significant number of fisheries defined as overfished, it is likely that it represents the minimum number of overfished fisheries and understates the number of fisheries that will eventually be determined to be overfished. By this time next year, the overfishing definitions currently used by a majority of FMPs will have been changed to reflect the Magnuson-Stevens Act definition of overfishing. Currently, most FMP overfishing definitions rely entirely or partially on a fishing mortality rate (the rate at which fish die as a result of fishing activity). This type of definition assesses fishery/species status based on whether or not overfishing is taking place. In contrast, the Magnuson-Stevens Act defines "overfished" and "overfishing" as a rate or level of fishing mortality that jeopardizes a fishery's capacity to produce maximum sustainable yield (MSY) on a continuing basis. Therefore, many of the species that are now classified as "not overfished" on the basis of existing FMP overfishing definitions probably will be reassessed as "overfished" under the new definition in future Reports.

Within 1 year of the notification of

(continued on p. 2)

Ensuring the Health and Safety of Fishery Observers

Congress included in the Sustainable Fisheries Act (SFA) a requirement that the Secretary establish regulations for fishing vessels that carry observers. In response to this requirement, NMFS published a proposed rule in the Federal Register on September 22, 1997, that would establish regulations that ensure fishing vessels are safe and adequate to carry an observer and to permit observer functions.

Section 403(a)(1) of the Magnuson-Stevens Act [SFA §205] requires the Secretary to establish regulations with guidelines for deciding when a vessel should not carry observers due to the inadequacy of the vessel's facilities or because of unsafe conditions. The vessel must be safe and adequate for observer

(continued on p. 2)

On October 11, 1996, the Sustainable Fisheries Act (SFA) became law. It amended the Magnuson Fishery Conservation and Management Act (renamed the Magnuson-Stevens Fishery Conservation and Management Act). The SFA includes numerous provisions that will require science, management and conservation actions by the National Marine Fisheries Service (NMFS). Mandatory implementation dates range from December 1996 to December 1998.

This is the third in a series of updates on NMFS implementation of SFA amendments to the Magnuson-Stevens Act. Throughout issues of the SFA Bulletin, "MSA §", followed by a section number, will identify specific sections of the Magnuson-Stevens Act. Sections of the Sustainable Fisheries Act are identified by "SFA §". Acronyms commonly used in the Update include: AP (Advisory Panel), EFH (Essential Fish Habitat), FMP (fishery management plan), and HMS (Highly Migratory Species).

Overfished stocks

(continued from front page)

overfished fisheries, the appropriate Councils, or the Secretary in the case of Atlantic highly migratory species, are required to submit an FMP, an FMP amendment, or proposed regulations for those fisheries that were found to be overfished (by September 30, 1998) [MSA § 304(e)(3)]. These new FMPs, FMP amendments or proposed regulations must set a timeline for ending overfishing in the fishery and for rebuilding the fishery. The timeline must be as short as possible, taking into account several factors, but cannot normally exceed 10 years, except under certain specific conditions [MSA §304(e)(4)].

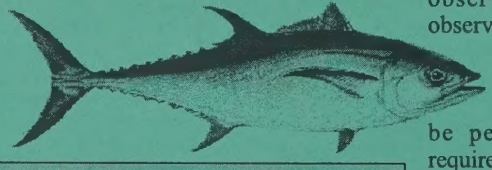
Copies of the Report on the Status of the Fisheries of the United States are available from George Darcy, Office of Sustainable Fisheries, Domestic Fisheries Division, 1315 East-West Hwy., Silver Spring, MD 20910. The report is also available on the Internet at <<http://kingfish.ssp.nmfs.gov/sfa>>.

Advisory Panels Work on Future Management of Atlantic HMS

NMFS has formed three advisory panels (APs) to assist in identifying and evaluating options for future management in the fisheries for Atlantic tunas, swordfish, sharks and billfish. Two of the panels, the Billfish AP and the Highly Migratory Species (HMS) AP, will assist NMFS in preparing fishery management plans (FMPs) and plan amendments for Atlantic HMS [MSA §304(g); SFA §107(e)]. The third panel, the Pelagic Longline AP, will help NMFS prepare a report to Congress on the feasibility of implementing a comprehensive management system for the pelagic longline fishery [MSA §304 note; SFA §109(h)].

At its second meeting, the Billfish AP reviewed a draft issues and options paper that will be used this fall in a series of public meetings to gather the public's input on development of an amendment to the FMP for Atlantic Billfish. The Pelagic Longline AP identified issues that are important to consider in evaluating the feasibility of implementing a comprehensive management plan for the fishery at its second meeting. The Pelagic Longline AP also attended a technical workshop at which scientists from the NMFS Southeast Fishery Science Center and the Louisiana Cooperative Extension Service discussed science and management issues in the longline fishery.

The HMS AP was recently formed to assist NMFS in developing a fishery management plan for Atlantic tunas, swordfish and sharks. Currently, sharks and swordfish are managed under their own FMPs; Atlantic tunas are managed under the Atlantic Tunas Convention Act. The new FMP will build on the existing FMPs for sharks and swordfish and will add a new management framework for tunas. The fisheries for Atlantic tunas, swordfish and sharks share many issues, participants and concerns. Management under a single FMP will integrate common issues, ease the regulatory burden on fishery participants, and promote more holistic management of Atlantic HMS. However, each of these species groups has unique biological and management issues that will be carefully considered by break-out groups of AP members who have expertise with a particular species. All meetings of the AP, including species break-out sessions, are open to the public. The HMS AP held its first meeting on October 16 and 17, 1997, in Building SSMC2, 1325 East-West Highway, Silver Spring, Maryland.



The first step in the development of an FMP for Atlantic HMS and an amendment to the Billfish FMP is to get input from the public on important issues in the fishery and on management options to address those issues. NMFS has scheduled a series of public scoping meetings in 19 cities in October and November of this year to gather public input on issues and options for HMS management. A document outlining several of the issues and options will be available in advance of, as well as at, each scoping meeting. Both the meeting schedule and the issues/options document are available online at <<http://kingfish.ssp.nmfs.gov/sfa>>, or by contacting Liz Lauck by fax (301) 713-1917 or by phone (301) 713-2347.

Observer Health & Safety

(continued from front page)

lodging and necessary observer functions, and cannot threaten observer health and safety or jeopardize the safe operation of the vessel [MSA §403(a)(1); SFA §205]. The Magnuson-Stevens Act also requires the regulations to have guidelines for determining actions the vessel owner or operator may be required to do to make those facilities adequate and safe [MSA §403(a)(2)].

The proposed rule would apply to mandatory and voluntary observer programs under the Magnuson-Stevens Act, the Marine Mammal Protection Act (MMPA), the Atlantic Tunas Convention Act (ATCA), the South Pacific Tuna Act (SPTA) or any other U.S. law. Since vessels in fisheries with mandatory observer programs must have observer(s) aboard to fish legally, those vessels that do not meet the safety requirements in the proposed regulation would not be permitted to fish until those requirements are met and the observer(s) is (are) on board. The observer's purpose is to collect data for fishery and protected species conservation and management, monitor bycatch mortality and injury to marine mammals and *(continued on p. 3)*

The SFA Update is published periodically by the Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Maryland 20910. Suggestions and comments should be sent to the above address, ATTN: SFA Update.

Director, Office of Sustainable Fisheries: Gary C. Matlock, Ph.D.
Editors: Richard Surdi, Peter Fricke, Aliçon Morgan
Design and Layout: Aliçon Morgan

Implementing the Sustainable Fisheries Act: NMFS Accomplishments to Date

Immediately after the SFA was enacted, NMFS developed a strategy to implement the SFA. The SFA Implementation Plan contains numerous, detailed tasks whose completion is necessary to implement the requirements of the SFA. A computerized tracking system of the Implementation Plan tasks is available on the SFA homepage online at <<http://kingfish.ssp.nmfs.gov/sfa>>. The National Oceanic and Atmospheric Administration (NOAA) Office of General Counsel for Fisheries (GCF) incorporated the SFA changes and amendments into a consolidated version of the Magnuson-Stevens Act. It is available at the same web site. Another document prepared by GCF, also located on the SFA homepage is A Guide to the Sustainable Fisheries Act. This document summarizes and interprets each section of the SFA and includes legislative history on most sections. Since SFA became law, NMFS has succeeded in implementing many of the requirements of the SFA. Highlights of completed tasks follow.

• November 1996 - Amendments to definitions in the Atlantic Coastal Fisheries Cooperative Management Act were reviewed. Necessary changes have been made. NMFS also prepared and sent guidance to the Regional Fishery Management Councils regarding the new review schedule for Fishery Management Plans (FMPs) and FMP amendments by the Secretary of Commerce (Secretary). An Advance Notice of Proposed Rule-making (ANPR) on Essential Fish Habitat (EFH), was published in the Federal Register.

• December 1996 - A letter report to Congress regarding plans for implementing bycatch reduction agreements under the SFA was prepared and transmitted. In addition, a revised schedule for key Secretarial events was distributed.

• January 1997 - Through its Northeast Fisheries Center, NMFS prepared and submitted a report to Congress on the New England fishing capacity reduction initiative.

• February 1997 - NMFS surveyed all Federal FMPs to identify existing standards and measures implemented for the purpose of reducing bycatch and prepared a report of its findings for the State Department. A notice seeking nominations to HMS Advisory Panels (APs) was published in the Federal Register.

• March 1997 - A notice requesting nominations to an Ecosystem Principles AP, an ANPR regarding a Central Lien Registry System for Limited Access Permits, and a Rule regarding the lobster fishery in Maine "pocket" waters were published in the Federal Register.

• April 1997 - A Notice requesting nominations to Red Snapper Peer Review Panels, a notice announcing membership of two HMS APs, a Proposed Rule regarding EFH, and a notice requesting comments on other HMS APs were published in the Federal Register.

• May 1997 - A Final Rule on Foreign Fishing Vessels in Internal Waters, a Rule regarding Negotiated Conservation and Management Procedures, and a notice of the membership of the Ecosystem Principles AP were published in the Federal Register.

• June /July 1997 - Proposed National Standard Guidelines were developed and published in the Federal Register [62 FR 41907], the 45-day comment period for these proposed guidelines ended September 18, 1997; a proposed rule containing procedures for soliciting nominations from Treaty Tribes with fishing rights in California, Idaho, Oregon and Washington, and for appointing a new Indian Tribal representative to the Pacific Fishery Management Council was published in the Federal Register [62 FR 35468], the comment period for this proposed rule was extended to August 11; the HMS Pelagic Longline Fishery AP met July 14; the HMS Billfish AP met July 22-23; and the Red Snapper Statistics Peer Review Panel met July 21-25.

• August/September 1997 - Report of the Status of Fisheries of the United States [MSA § 304(e)], was sent to the Councils on September 30 (see story page 1); the proposed Guidelines for Carrying Observers [MSA §403(a)], was published in Federal Register on 22 September (62 FR 49463) (see story page 1); the final rule regarding the addition of a Tribal Representative to the Pacific Fishery Management Council was published in the Federal Register on September 10 (62 FR 47584); a draft proposal for Guidelines for Fishing Capacity Reduction was published on the Internet at <<http://kingfish.ssp.nmfs.gov/sfa/proprules>> on August 22; the final rule on Policy Guidelines for Emergency Rules was published in the Federal Register on August 21(62 FR 44421); and a proposed rule for Recusal of Council Members was published in the Federal Register on August 7 (62 FR 42474). Panel meetings, workshops and hearings in August and September included: Red Snapper Economics Peer Review Panel meeting (August 18-21) and Science & Management Peer Review Panel meeting (August 25-29); Ecosystem Principles Advisory Panel (AP) meeting (September 9-10); HMS/Billfish AP meeting (September 18); HMS/Longline Technical Working Group meeting (September 18); House Committee on Natural Resources oversight hearing (September 18); and HMS/Longline AP meeting (September 19).

Observer Health & Safety

(continued from p. 2)

protected species, and/or monitor adherence to Federal regulations.

The proposed rule would require fishing vessels to, at a minimum, meet U.S. Coast Guard (USCG) safety standards to be considered safe and adequate for carrying observers. Vessels would go through USCG safety inspections and display a decal or certificate indicating compliance with USCG safety regulations. The vessel owner would be able to schedule the inspections, which would occur at dockside at no cost to the vessel owner, at a time that is most convenient to the vessel owner.

The proposed regulations are provided in the Federal Register notice (62 FR 49463). The notice is available online via the SFA Homepage at <<http://kingfish.ssp.nmfs.gov/sfa>> or by searching the Federal Register through GPO Access at <<http://www.access.gpo.gov/su_docs/aces/aces140.html>>. Comments on the proposed rule should be sent by October 22, 1997 to Gary Matlock, Director, NMFS Office of Sustainable Fisheries, 1315 East-West Hwy., Silver Spring, MD 20910.

Draft Strategic Plan for Fisheries Research

NMFS has prepared a strategic plan (Plan) for fisheries research. The Plan covers four major areas of research: fisheries research, research to support fishery conservation and management; conservation engineering research and information research [MSA §404].

A notice of availability for the Plan was published in the Federal Register on October 7, 1997 [62 FR 52323]. The draft Plan is available on the Internet at <<http://ssp.kingfish.nmfs.gov/sfa>>. Written comments on the draft Plan received on or before November 6, 1997 will be considered by NMFS in the development of the final Plan. Requests for copies of and comments on the draft Plan should be directed to Mark Chandler, NMFS, Office of Science and Technology, Station 14303, 1315 East-West Hwy., Silver Spring, MD 20910.

In the Works...

NMFS is incorporating SFA changes and amendments into the National Standard Guidelines (Guidelines). The comment period for the proposed changes to the Guidelines closed on September 18, 1997. Look for a final rule in the Federal Register within the next several months. The Guidelines provide detailed requirements for fisheries conservation and management under the Magnuson-Stevens Act. They also serve as an aid in the development of FMPs and in Secretarial review and approval of FMPs.

A proposed rule requesting comment on a proposed list of fisheries in the EEZ under the Councils' and/or Secretary's authority and of fishing gear used in those fisheries will be published shortly in the Federal Register. The goal of the lists is to prevent the introduction of new and potentially damaging gear or fisheries without the Councils' or Secretary's knowledge. This proposed rule will include a set of guidelines for fishermen to notify the appropriate authority of intent to use a new gear or engage in a fishery that does not appear on the proposed list of fisheries and allowable gear. The proposed listings and guidelines give the Councils and the Secretary the ability to specify allowable gear types and provide a standard process for evaluating new gear or fisheries [MSA §305(a)].

INTERNET http://kingfish.ssp.nmfs.gov/sfa

Department of Commerce/NOAA
National Marine Fisheries Service
Office of Sustainable Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Address Correction Requested
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE $300